MT LEGISLATIVE HISTORY

Chapter 523 1989

Bill (H) 329 S _____ Original bill & hist. ✓ C

H. Committee on Fish & Game			S. Committee on Fish & Game		
Hearing Date(s)	Jan 27	✓ C	Hearing Date(s)	Mar 17	✓ C
	Feb 03	✓ C		Mar 26	✓ C
		C			C
		C			C
Date Out	Feb 03	✓ C		Mar 27	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

HOUSE BILL NO. 329

INTRODUCED BY REAM, ELLISON, E. SMITH, BISHOP

IN THE HOUSE

JANUARY 20, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
FEBRUARY 6, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 7, 1987	PRINTING REPORT.
FEBRUARY 9, 1987	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 10, 1987	ENGROSSING REPORT.
FEBRUARY 11, 1987	THIRD READING, PASSED. AYES, 84; NOES, 13.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 12, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
MARCH 27, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 30, 1987	SECOND READING, CONCURRED IN.
	ON MOTION, RULES SUSPENDED AND BILL PLACED ON THIRD READING THIS DAY.
	THIRD READING, CONCURRED IN. AYES, 48; NOES, 2.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 7, 1987	RECEIVED FROM SENATE.
	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
APRIL 8, 1987	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 9, 1987	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.

House BILL NO. 329

INTRODUCED BY Ream Ellison

E. Smith Bishop

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING RESTITUTION FOR THE ILLEGAL KILLING OR POSSESSION OF CERTAIN WILDLIFE; PROVIDING A PENALTY; AND PROVIDING FOR DISPOSITION OF RESTITUTION MONEY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Restitution for illegal killing or possession of certain wildlife. In addition to other penalties provided by law, a person convicted of the illegal killing or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state for such bird, mammal, or fish according to the following schedule:

(1) bighorn sheep, mountain goat, caribou, buffalo, grizzly bear, moose, and endangered species, $1,000;

(2) elk, mountain lion, black bear, lynx, and wolverine, $500;

(3) deer, antelope, fisher, raptors, swans, bobcat, and sturgeons, $300;

(4) paddlefish, grayling, and furbearers not listed in subsection (1), (2), or (3), $100;

(5) game birds (except swans) and nongame birds (except raptors, rock doves, house sparrows, and starlings), $25;

(6) game fish, $10.

Section 2. Payment -- penalty for nonpayment. (1) In each case of conviction, the court before which the conviction is obtained shall order payment of the sum stated in [section 1].

(2) Failure to make payment in the time and manner prescribed by the court constitutes civil contempt of court and is punishable as provided in Title 3, chapter 1, part 5.

Section 3. Disposition of proceeds. All money collected by a court pursuant to [this act] must be remitted to the state treasurer for deposit in the state special revenue fund as provided in 87-1-601(1).

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB329, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:
This bill provides for a civil penalty for the illegal killing or possession of certain wildlife, birds, and fish; and provides for the disposition of these funds.

ASSUMPTIONS:
1. Estimates are based upon a three year average of the number of convictions received in Montana for the illegal killing or possession of wild birds, mammals and fish listed in this bill.
2. Estimate that 1/4 of the convictions will not result in a fine collection.

FISCAL IMPACT:

FY88 and FY89

Estimated Restitution for Illegal Killing or Possession

		Estimated Convictions	Restitution	Total
1.	Bighorn Sheep, Mountain Goat, Caribou, Buffalo, Grizzly Bear, Moose, Endangered Species	10	1,000	$10,000
2.	Elk, Mountain Lion, Black Bear, Lynx, Wolverine	30	500	15,000
3.	Deer, Antelope, Fisher, Raptors, Swans, Bobcat, Sturgeons	40	300	12,000
4.	Paddlefish, Grayling, Furbearers not listed above	40	100	4,000
5.	Game Birds and non-game birds	60	25	1,500
6.	Game Fish	276	10	2,760
	TOTAL			$45,260
	3/4 resulting in fine collection			$33,945

This bill will result in the Department of Fish, Wildlife and Parks receiving $33,945 in restitution per year.

David L. Hunter DATE 1/26/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Bob Ream DATE
BOB REAM, PRIMARY SPONSOR

Fiscal Note for HB329, as introduced.

HB-329

Form CS-32
Rev. 1985

STATUS SHEET

50TH LEGISLATIVE SESSION

FISH AND GAME COMMITTEE COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE CONC IN AME DA
HB 329	1-27-87	1-27-87	2-3-87		2-3-87						
HB 339	2-3-87	2-3-87	TABLED 2-10-87								
HB 352	1-29-87	1-29-87	TABLED 2-10-87								
HB 378	1-29-87	1-29-87	TABLED 1-29-87								
HB 379	2-5-87	2-5-87	2-17-87			2-17-87					
HB 394	2-3-87	2-3-87	TABLED 2-10-87								
HB 407	2-3-87	2-3-87	TABLED 2-17-87								
HB 406	1-29-87	1-29-87	2-17-87			2-17-87					
HB 424	2-10-87	2-10-87	2-10-87	2-10-87							
HB 429	2-5-87	2-5-87	2-17-87	2-17-87							
HB 431	2-12-87	2-12-87	2-12-87	2-12-87							
HB 454	2-17-87	2-17-87	2-17-87			2-17-87					
HB 463	2-12-87	2-12-87	2-12-87			2-12-87					
HB 464	2-12-87	2-12-87	2-17-87			2-17-87					

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
HOUSE OF REPRESENTATIVES
50TH LEGISLATIVE SESSION

The meeting of the Fish and Game Committee was called to order by Chairman Orval Ellison on January 27, 1987, at 1:00 p.m. in Room 312 of the State Capitol.

ROLL CALL: All committee members were present.

HOUSE BILL NO. 266: Rep. Bob Ream, District #54, sponsor of the bill stated the prupose of this bill is to clarify the language in the existing law. No on really knows what the stricken language "have authority to recommend that the legislature" means. The language has not been seen yet this session, however, last session, it was a problem. The department had a species it had asked to be included. In reading the language, they felt they had to go to the Speaker of the House and the President of the Senate to make a recommendation the Legislature would include. They did send a letter to the House and Senate asking what could be done about this. HB 266 simply makes it clear they can propose legislation, and is the purpose of the bill, to clarify the process needed to go through for any proposed legislation.

PROPONENTS: Ron Marcoux representing the Department of Fish, Wildlife and Parks submitted testimony (Exhibit 1). He stated HB 266 is intended to clarify the method by which the DFWP should propose action to the legislature regarding classification of fish and wildlife under the endangered species act (87-5-101). The present language directs the department to "recommend" to the legislature to list or delist species of fish and wildlife. The process by which the department would make such recommendations under HB 266 is by proposing specific legislation. Mr. Marcoux did suggest one amendment by the DFWP (Exhibit 1).

Janet Ellis representing the Montana Audubon Legislative Fund stated MALF supports the bill as amended by the Department.

Stan Bradshaw representing Trout Unlimited, stated as yet, trout or related species TU is interested in, have not shown up as an endangered species. Trout Unlimited supports the bill with the amendment suggested by the DFWP.

Tony Schoonen, concerned sportsman, stated he supports HB 266 with the Department's amendment.

NO OPPONENTS

Rep. Grady asked why this bill was needed, due to the fact the department proposes many pieces of legislation and all they are required to do is find a sponsor.

Rep. Ream stated as written before, they couldn't just directly propose legislation, at least that's how it was interpreted.

It says they have "the authority to recommend". The process itself was not clear, regarding directly proposing legislation.

Rep. Grady asked Mr. Marcoux if endangered species is any different than any other piece of legislation.

Mr. Marcoux stated we are talking about amending the act that provides for listing of endangered species in Montana and, this is the reason for the amendment. As mentioned, all we are doing is clarifying process in dealing with the endangered species list in Montana. Regarding changes to the bill, other than clarification from confusion resulting from last session, no other changes are being proposed for the bill.

Rep. Ream closed stating the amendment proposed by the Department is acceptable, and feels it does clarify and makes the bill more workable. It is a simple bill clarifying language and does not add anything else to the bill.

The hearing closed on HB 266.

HOUSE BILL NO. 329: Rep. Bob Ream, District #54, sponsor of the bill stated the purpose of HB 329 was prompted by concern heard throughout the state from sportsmen and others regarding the inequity in the courst when dealing with illegally taken wildlife. Currently, in court cases, some judges are very lenient and give people a bare minimum fine, more or less treating wildlife offenses like a speeding or parking ticket, whereas, other judges have the ability or take the position to assess a charge perhaps right to the maximum allowed by law. This bill assesses a penalty fee for the illegal taking of certain species of wildlife and that fee has been determined by surveying a number of other states around the country that have similar kinds of restitution fees. The penaltys that are in the bill roughly match those from other states. HB 329 does not prevent judges from assessing a charge for breaking the law, they can do that as well. However, HB 329 does provide these penalty fees for illegal taking of wildlife.

PROPONENTS: Ron Marcoux representing the Department of Fish, Wildlife and Parks submitted testimony (Exhibit 2). He stated the DFWP recommends requiring the illegal killing must have been done in a "willful" manner. Requiring a "willful" act means the act must have been done intentionally, knowingly and purposely, without justifiable excuse or distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. This change is needed to fully carry out the intent of the bill. A suggested amendment is attached (Exhibit 2). The civil restitution legislation would enable the citizens of Montana to redeem the value of illegally taken animals. A $500 find for a trophy elk or Rocky Mountain sheep worth over $5,000 on the black market does not act as sufficient deterrent. Civil restitution would force a violator to pay for the value of that wildlife to Montana's citizens.

Jeanne Klobnak representing the Montana Wildlife Federation submitted testimony (Exhibit 3). She stated HB 329 offers a method of just compensation to the state for the illegal taking of wildlife. Although current law provides criminal penaltys may be weighed against a person convicted of illegally killing or possessing wildlife, it does not provide for restitution in such cases. HB 329 would also aid in discouraging poaching in providing a direct monetary disincentive.

Janet Ellis representing the Montana Audubon Legislative Fund submitted testimony (Exhibit 4). She stated HB 329 will increase penaltys for illegally taking Montana's wildlife, yet, increase those penaltys in a way we believe the resource will benefit. HB 329 is a way of setting up a system of penaltys that ensures the people of Montana are at least partially reimbursed for the loss of their wildlife. Another aspect of this legislation we support is, the resource will benefit from the fines in two ways; higher fines, which will make poaching less lucrative, and this money would then go back into the resource, by supporting the operating budget of Fish, Wildlife and Parks. MALF has offered an amendment to HB 329. (Exhibit 4).

Stan Bradshaw representing Trout Unlimited stated they feel it will be a positive inducement for better biddings of the law. The current fine structure does not provide the kind of positive inducement we need. This will make the punishment more commensurate with the size and abuse of the crime committed, and should be more effective in dealing with the kinds of illegal actions seen in the past.

Jeanne-Marie Sourigney representing the Montana Sierra Club stated they support HB 329 including the amendments offered by MALF. The Sierra Club members feel quite strongly these laws are valid and the bill is not attempting to change laws regarding illegal taking. These laws are only as good as the enforcement or the penaltys associated with them. The penalty must be strong enough to discourage people who violate these laws and to encourage those who do abide by the law.

NO OPPONENTS

Rep. Pavlovich wanted to know if these fines were singular or plural, and if three bighorn sheep were taken illegally, would these fines be a certain amount for the entire violation or would each sheep taken receive a penalty fee.

Rep. Ream stated each animal taken would be give a penalty fee.

Rep. Pavlovich asked Rep. Ream if he feels the fines are "stiff enough."

Rep. Ream stated he feels they are "reasonable."

Rep. Phillips had concerns regarding the game birds and non-game birds included in the bill. He wanted to know where a crow fits among all the other birds listed.

Janet Ellis stated there is a list with the Department of Agriculture of predatory birds that can be taken, and the crow is part of that such list.

Rep. Cobb had concerns with the wording "willfully" as opposed to "knowingly" and used an example of a landowner who may have shot a deer unintentionally and wanted to know if he would receive a fine along with the penalty.

Mr. Flynn explained if you take it in context, willful would in some cases, mean the rancher/landowner who might shoot a deer on his land. Purposely, would be directed toward those people out there that are intentionally trying to break the law or take an animal illegally, and this is what HB 329 is aimed at.

Rep. Hanson wanted to know why turkeys were not included in the list, and felt the fine should be more than $25, because turkeys are better than grouse or pheasant.

Rep. Ream stated they could be separated out with an additional amount added to the fee.

Rep. Giacometto suggested an amendment be added to clarify "willfully" and "knowingly."

Rep. Ream closed stating the amendment would serve as a clarification, but the bill would insure the penalty fees be assessed along with a judges ruling. Hopefully, this will deter some of the illegally taken wildlife in Montana and serve as a notice to those people who are thinking about breaking the law. He feels the fees set are appropriate and not too stiff.

Hearing closed on HB 329.

HOUSE BILL NO. 247: Rep. John Cobb, District #42, sponsor, stated the bill is another B-10 license bill to allow the Fish and Game to allocate a portion of the Class B-10 nonresident big game combination licenses to applicants employing license outfitters. He stated the commission cannot decide what to do about this. The feel the legislature should set the numbers, but if the legislature cannot seem to come to a conclusion, it might be best to give it back to the commission so they can decide.

PROPONENTS: Rep. Bob Gilbert was unable to testify as a proponent of the bill and offered amendments to HB 247, which were submitted by Jeanne Klobnak (Exhibit 5).

DAILY ROLL CALL

FISH & GAME COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 27 1987

NAME	PRESENT	ABSENT	EXCUSED
ORVAL ELLISON, CHAIRMAN	X		
MARIAN HANSON, VICE CHAIRMAN	X		
RAY BRANDEWIE	X		
TOM BULGER	X		
JOHN COBB	X		
FRITZ DAILY	X		
GENE DEMARS	X		
JERRY DRISCOLL	X		
LEO GIACOMETTO	X		
ED GRADY	X		
LOREN JENKINS	X		
VERNON KELLER	X		
JANET MOORE	X		
BOB PAVLOVICH	X		
MARY LOU PETERSON	X		
JOHN PHILLIPS	X		
PAUL RAPP-SVRCEK	X		
BOB REAM	X		
STAFF: DAVE COGLEY			

DATE 1-27-87
HB 329
Ex. 2

HB 329
January 27, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

Montana has some of the best fish and wildlife resources still available to the public within the continental United States. As other states have experienced expanded population growth and the accompanying development, Montana's resources have risen in relative quality.

As demand for our fish and wildlife resources becomes more important, it also becomes more susceptible to illegal hunting and fishing. We are aware of this susceptibility and have taken some steps to address it.

With the support of the public and the legislature, we have increased our enforcement capability and developed closer ties with enforcement officials of other states and the federal government. In addition, the 1985 legislature authorized the Tip Mont Program, designed to curb poaching. During its first year this program led to 79 investigations and 21 arrests with fines in excess of $22,000.

Today the black market in wildlife seeks out items such as trophy heads and skins, velvet elk antlers, grizzly and black bear parts, eagle feathers and birds of prey.

Revenues from this legislation would be placed in the state special revenue fund to the credit of the Department of Fish, Wildlife & Parks. This money could be used to fund additional enforcement activities directly related to commercial poaching activities.

The department recommends requiring that the illegal killing must have been done in a willful manner. Requiring a willful act means the act must have been done intentionally, knowingly, and purposely, without justifiable excuse or distinguished from an act done carelessly, thoughtlessly, heedlessly, or inadvertently. This change is needed to fully carry out the intent of this bill. A suggested amendment is attached.

The civil restitution legislation would enable the citizens of Montana to redeem the value of illegally taken animals. A $500 fine for a trophy elk or Rocky Mountain sheep worth over $5,000 on the black market does not act as sufficient deterrent. Civil restitution would force a violator to pay for the value of that wildlife to Montana's citizens.

We request your approval of this bill.

EXHIBIT (2)
DATE 1-27-87
HB 329

AMENDMENT TO HB 329
INTRODUCED (WHITE) COPY

Requested by Department of Fish, Wildlife & Parks

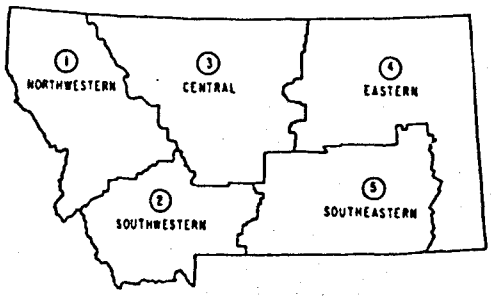
Page 1, Line 12

Following: "of the"
Insert: "willful and"

HB 329
Ex 3

Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION



Testimony on HB 329

House Fish & Game Committee

January 27, 1987

Mr. Chairman, members of the Committee, my name is Jeanne Klobnak. I stand before you today to represent the Montana Wildlife Federation in their support of HB 329.

The Montana Wildlife Federation (MWF) is a conservation organization, comprised of 4600 members, dedicated to promoting wildlife, wildlife habitat, and sportsmen's interests.

HB 329 offers a method of just compensation to the state of Montana for the illegal taking of wildlife. Although current law provides that criminal penalties may be weighed against a person convicted of illegally killing or possessing wildlife, it does not provide for restitution in such cases.

The sportsman who legally purchases a license to kill or possess wildlife has paid the state something in return for the taking of that resource. An individual who takes wildlife who has not either purchased a license or been otherwise legally authorized to do so, violates the publics' rights. It is just that he or she be both penalized and forced to compensate the state for its loss upon conviction.

HB 329 also would aid is discouraging poaching in providing a direct monetary disincentive.

MWF urges that this committee do pass HB 329.

(4)
1-27-87
HB 329

Montana

Audubon Legislative Fund

January 27, 198
HB 329

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here before you representing the Montana Audubon Legislative Fund. The Audubon Fund is composed of members of the National Audubon Society, and includes 2500 members in nine chapters located throughout the state.

The Audubon Fund wants to go on record in support of HB329. This legislation will increase penalties for illegally taking Montana's wildlife, yet increase those penalties in a way we believe the resource will benefit.

To begin, fines for wildlife-related crimes in the state are not consistent. Some judges and prosecuting attorneys always levy the lowest fine possible. Several cases in point:

*recently a bighorn sheep ram was poached and the convicted poacher was charged a $500 penalty for the offense.

*another incident happened near Kalispell where a man killed two bull moose, left one to rot, and was convicted and charged with a $300 fine.

HB 329 is a way of setting up a system of penalties that ensures that the people of Montana are at least partially reimbursed for the loss of their wildlife.

More and more states are adopting restitution legislation as a way to regain at least a portion of the value of the wildlife lost by illegal means. Another aspect of this legislation that we support is that the resource will benefit from the fines in two important ways:

1) higher fines will make poaching less lucrative; and

2) this money would go back into the resource by supporting the operating budget of Fish, Wildlife & Parks. This second point is worth emphasizing: current fine money collected by FWP (with the exception of boating and snowmobile fines) are earmarked by the legislature to pay the unfunded liability of the game warden's retirement system. We feel that the resource should benefit from any additional fines and are pleased that this legislation sends the fines to a place that can more directly touch the resource.

Finally, while we support HB 329, we would like to suggest two possible amendments:

1) Specify on page 1, line 21 that the fine of $300 is for pallid and white sturgeons and <u>not</u> just "sturgeons." The shovelnose sturgeon, the only other sturgeon in the state, is not in any trouble at all. The shovelnose should hence be included under game fish fines at $10.

EXHIBIT (4)
DATE 1-27-87
HB 329

Missoulian Friday Oct. 10, 1986

Warden nabs greedy anglers

DILLON (AP) — A pair of California fishermen had good luck fishing the Big Hole River and other southwestern Montana trout streams last week — a little too good, state wildlife officials said.

The two men were cited for having too many trout in their possession after being found with 187 trout during a random check by a game warden.

The men, Frank Sanchez, 52, of Sunvale, Calif., and Frank Benassi, 51, of San Jose, each posted $500 bond and returned to California late last week.

State Warden Sarge Hoehm said he stopped to check the men's licenses last Thursday and became suspicious when the men told him they had caught 30 or 40 fish.

He asked to check their cooler found it was full of food, but a refrigerator in their motor home was "stuffed full of fish."

"That was the most fish I ever spotted by far," Hoehm told the Dillon Tribune-Examiner. "I once got 38 fish on an undercover operation. I just could not believe it."

Hoehm alleged the men had in their possession 97 brown, rainbow or cutthroat trout and 90 brook trout. They had been fishing in southwestern Montana, including trout streams such as the Big Hole and Beaverhead rivers, for a week.

The warden cited them for possession of unlawfully taken game fish and violation of possession limits.

Californians pay $1,000 for 187 illegal fish — Page 5

Californians nabbed with 187 fish

DILLON — A local game warden's random fishing license check of two California men led to the discovery of a cache of 187 illegal fish and hefty fines for the pair.

Frank Benassi of San Jose and Frank Sanchez of Sunnyvale, each forfeited $500 bonds in Justice of the Peace Dick Later's court on misdemeanor charges of possession of unlawfully taken fish and taking over the limit of game fish.

State Department of Fish, Wildlife and Parks warden Sarge Hoem said the men had more than 100 brook trout in their possession. The limit is 20 fish each, he said.

They also had nearly 50 rainbows, cutthroats and brown trout in their possession. The limit on those fish is five fish per man with only one fish over 18 inches allowed.

The majority of the catch "were good pan fish" size, Hoem said. "They didn't have any trophy fish."

The Californians had been fishing Sheep and Red Rock Creeks south of Dillon; the Big Hole River and Governor Creek, northwest of Dillon; and the Ruby River in Madison County. They arrived in the area for their fishing excursion Sept. 25 and before their arrest Oct. 1, planned to leave the next day.

The fish will be sold at public auction Thursday at 5:30 in the Beaverhead County courthouse back parking lot. The sale will also include confiscated elk and deer meat.

VISITOR'S REGISTER

FISH AND GAME COMMITTEE

BILL(S) HB 247; HB 266; HB 329 DATE JAN. 27, 1987

SPONSOR(S) COBB; REAM

NAME	REPRESENTING	BILL NO.	SUP-PORT	OP-POSE
Paul F. Berg	Billings Rod & Gun club Southeastern Sportsmen Assoc.	HB247	amend Merit	
Janet Ellis	MT Audubon HB266 HB329	←	X	
Stan Bradshaw	Trout Unlimited H.B.266 H.B.329	←	✓	
Scott Ross Box 5221 Helena 59604	Montana Bowhunters Assn.	HB247 BB329	✓ ✓	
Dana Field	MT Audubon Legis. Fund HB	266 329	✓ ✓	
Jeanne-Marie Souvigney	MT Sierra club	HB329	✓	
Jeanne C. Molnar	MT Wildlife Fed.	HB247 HB329	✓	
Roland Cheek	MOGA	HB247		✓
Bob Lamberson	MOGA	HB247		✓
ESTHER STENBERG	MT Wildlife Fed	HB247 HB329	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR VISITOR'S STATEME
IF YOU HAVE WRITTEN COMMENTS, PLEASE GIVE A COPY TO THE SECRETARY.

17

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
HOUSE OF REPRESENTATIVES
50TH LEGISLATIVE SESSION

February 3, 1987

The meeting of the Fish and Game Committee was called to order by Chairman Orval Ellison on February 3, 1987, at 1:00 p.m. in Room 312 of the State Capitol.

ROLL CALL: All committee members were present with the exception of Reps. Daily and Moore who were excused.

HOUSE BILL NO. 339: Rep. Bob Gilbert, District #22, sponsor, stated HB 339 was an act to require posting of private lands by landowners who prohibit entry onto their lands. In most instances, the land is neither marked nor fenced. Under current law, merely stepping on the land was considered a criminal offense, and there are landowners and individuals as sportsmen, who do take advantage of this. HB 339 primarily addresses the mine claims, and old homesteads that lie within the boundaries and portions of land bought that were basically homesteads years ago. If you wander on someone else's land and the owner does not care, he is not required to mark the boundaries of the land. However, if he does not want you on that land, and that is his right, he should then be required to either fence it or mark it. The bill specifically states "if entry is prohibited".

PROPONENTS: Jim Flynn, Director, Department of Fish, Wildlife and Parks, distributed testimony (Exhibit 1). He stated the proposed legislation specifically defined the posting requirements for private property such as mining claims and/or homesteads surrounded by public land. Currently, the law requires only posting at normal points of entry where a body of water intersects a property boundary. The bill appears to provide for a more adequate notice of private property boundaries for those using public lands.

Tony Schoonen, representing the Skyline Sportsman, stated his only recommendation would be the posting cost should mainly be born by the federal agencies, primarily so there would not be a lot of time lost, as far as landowners are concerned, spent in marking all their boundaries.

Jeanne Klobnak representing the Montana Wildlife Federation, stated in the best interest of landowner/sportsman relations, MWF supported HB 339.

OPPONENTS: Jerry Jack, Montana Stockgrower's Association, stated primarily this will put an unnecessary burden on the

Rep. Rapp-Svrcek asked Mr. Flynn that given the fact the department had only had ten requests in the last three years, and the fact they don't care how much they pay, how complicated would it be to keep track of those few a number.

Mr. Flynn reiterated that there could be more, and stated that when you get involved in this, you must start keeping records of family sons, and fathers, and different names, married names and unmarried members of certain families, and it would end up being a never-ending job.

Rep. Ream asked Mr. Flynn if a landowner category for nonresidents was proposed requiring them to keep their land open for hunting, could this actually open up some land that hadn't been open before.

Mr. Flynn stated it would definitely have a positive effect, without knowing exactly what the results would be.

Rep. Grady closed stating HB 407 was a good bill. As Mr. Flynn stated, price was not the object. There are over 24,000, almost 26,000 applications for the 17,000 licenses and this is where the problem lies. HB 407 was in no way a promotion to sell land. He felt it would not close up more land, but open additional land that was not available previously. He felt the problem of getting an out of state license would get more difficult, especially with the set aside. He asked the committee to take a serious look and consider the options of HB 407.

Hearing on HB 407 closed.

EXECUTIVE SESSION:

HOUSE BILL NO. 329: Rep. Ream moved HB 329 DO PASS. Rep. Ream moved the amendments to HB 329 and asked Dave Cogley to explain.

Dave Cogley stated the amendments addressed two questions raised at the hearing. One was whether or not the restitution fee would apply to each bird or each offense. To clarify, there first had to be a conviction for the illegal killing or possession of the bird. There was a question of whether or not that offense, constituted more than one animal, and if the fee would apply to that offense or to each animal. The amendment would clarify the fee attaches to each animal. The second amendment was the willful intent discussed at the hearing. It was rewritten and inserted as a new section in the bill. That makes it more clear as to what the real intent is.

Rep. Driscoll stated there was concern regarding restitution being part of the bond and wondered if there were any way to legally make sure the restitution was part of the bond.

Dave Cogley stated they worked on that approximately three hours trying to get a bond requirement in the bill. Presently, bond amounts are established at the recommendation of the department and are set by the J.P.'s Association and the Lower Court Judges Association. They take the recommendation of the department in what those amounts should be, and would apply the same way to this fee. After dealing with this and trying to get it into some sort of legislation, all agreed it would be best to leave it the way fines for bond are normally set, and that was by recommendation of the Judges Association.

Question was called. The motion CARRIED unanimously. See Standing Committee Report Nos. 1 and 4. Rep. Hanson moved to amend HB 329 to include turkeys and have a penalty of $100. She felt turkeys were in a different class from game birds. You must have a turkey tag, and turkeys were better than a grouse or pheasant. Question was called on the amendment. The motion CARRIED unanimously. See Standing Committee Report No. 3. Rep. Jenkins moved to amend the $25 dollars and rearranging it in the bill. Question was called. The motion CARRIED unanimously. See Standing Committee Report No. 2.

Rep Ream moved HB 329 DO PASS AS AMENDED. Question was called. A roll call vote was taken, the motion CARRIED 11-5.

ADJOURNMENT: There being no further business to come before the committee, the meeting was adjourned at 2:57 p.m.

Orval Ellison

ORVAL ELLISON, CHAIRMAN

DAILY ROLL CALL

FISH & GAME COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb. 3, 1987

NAME	PRESENT	ABSENT	EXCUSED
ORVAL ELLISON, CHAIRMAN	X		
MARIAN HANSON, VICE CHAIRMAN	X		
RAY BRANDEWIE	X		
TOM BULGER	X		
JOHN COBB	X		
FRITZ DAILY			X
GENE DEMARS	X		
JERRY DRISCOLL	X		
LEO GIACOMETTO	X		
ED GRADY	X		
LOREN JENKINS	X		
VERNON KELLER	X		
JANET MOORE			X
BOB PAVLOVICH	X		
MARY LOU PETERSON	X		
JOHN PHILLIPS	X		
PAUL RAPP-SVRCEK	X		
BOB REAM	X		
STAFF: DAVE COGLEY			

ROLL CALL VOTE

HOUSE COMMITTEE FISH & GAME

DATE FEBRUARY 3, 1987 BILL NO. HB 329 TIME 2:50 p.m.

NAME	EXCUSED	AYE	NAY
ORVAL ELLISON, CHAIRMAN		X	
MARION HANSON, V. CHAIRMAN		X	
RAY BRANDEWIE			X
TOM BULGER		X	
JOHN COBB			X
FRITZ DAILY	X		
GENE DEMARS		X	
JERRY DRISCOLL		X	
LEO GIACOMETTO		X	
ED GRADY			X
LOREN JENKINS		X	
VERNON KELLER			X
JANET MOORE	X		
BOB PAVLOVICH		X	
MARY LOU PETERSON		X	
JOHN PHILLIPS			X
PAUL RAPP-SVRCEK		X	
BOB REAM		X	
TALLY		11	5

Lisa Routh
Secretary

Orval S. Ellison
Chairman

MOTION: Rep. Ream moved that HB 329 DO PASS AS AMENDED. Question being called, a roll call vote was taken. The motion carried 11-5

FEBRUARY 3 19 87

Mr. Speaker: We, the committee on FISH AND GAME

report HB 329

☒ do pass ☐ be concurred in ☒ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

REP. ORVAL ELLISON Chairman

Amendment to HB 329 (Introduced bill)

1. Title, line 5.
Strike: "THE"
Insert: "CERTAIN"
Following: "OF"
Strike: "CERTAIN"

2. Page 1, line 14.
Following: "for"
Insert: "each"

3. Page 1, line 24 and 25.
Strike: "and" through "starlings)"
Insert: "and turkeys"

4. Page 2.
Following: line 2
Insert: "Section 2. Finding required. Before restitution may be ordered pursuant to [section 1], the finder of fact at trial or the court upon entry of a guilty plea must find that such illegal killing or possession was done knowingly or purposely as defined in 45-2-101."

Renumber Subsequent Sections

7029h/[redacted]:jj

FIRST reading copy (WHITE color)

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CHAIRMAN--SEN. ED SMITH
NORMAL SCHEDULE==> SITE: ROOM 402 DAYS: T-T-S TIME: 1:00 P.M.
SECRETARY-MARY FLORENCE ROOT

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0064	1/21	3/05	3-5	CONCUR AS AMENDED		3-5
HANSON, MARIAN			BOW HUNTER COMPETENCY TRAINING			
HB0093	1/21	3/05	3-5	CONCUR		3-5
HANSON, MARIAN			ALLOW TAKING OF CATFISH WITH LONGBOW AND ARROW			
HB0131	1/28	3/05	3-5	CONCUR		3-5
ELLISON, ORVAL			DEPARTMENT OF FISH, WILDLIFE, AND PARKS' AUTHORITY TO SELL EXCESS FISH EGGS			
HB0152	1/28	3/19	3-19	CONCUR AS AMENDED		3-19
BARDANOUVE, FRANCIS			PROPERTY TAXATION OF LAND OWNED BY DEPARTMENT OF FISH, WILDLIFE, AND PARKS			
HB0183	2/03	3/10	3-10	CONCUR		3-10
ELLISON, ORVAL			AUTHORITY OF FISH AND GAME COMMISSION TO SET FEES FOR CERTAIN LICENSES			
HB0210	2/03	3/10	3-10	CONCUR AS AMENDED		3-10
GRADY, ED			REQUIRE INVESTIGATION OF GAME DAMAGE COMPLAINT WITHIN 48 HOURS			
HB0211	1/29	3/12	3-12	CONCUR AS AMENDED		3-12
DEVLIN, GERRY			PROHIBIT HARASSMENT OF SPORTSMEN			
HB0266	2/04	3/12	3-12	CONCUR		3-12
REAM, BOB			AMENDMENT OF ENDANGERED SPECIES LIST			
HB0298	2/17	3/12	3-12	CONCUR		3-12
RAPP-SVRCEK, PAUL			RESTRICTIONS ON SPECIAL BIG GAME LICENSES			
HB0322	2/21	3/17	3-17	CONCUR AS AMENDED		3-26
EUDAILY, RALPH			ESTABLISH DUI BLOOD ALCOHOL LEVELS/CHEMICAL TESTING FOR BOAT OPERATORS			
HB0329	2/12	3/17	3-17	CONCUR AS AMENDED		3-26
REAM, BOB			RESTITUTION FOR ILLEGAL KILLING OF WILDLIFE			

HOUSE BILL NO. 329

INTRODUCED BY REAM, ELLISON, E. SMITH, BISHOP

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING RESTITUTION FOR ~~THE~~ CERTAIN ILLEGAL KILLING OR POSSESSION OF ~~CERTAIN~~ WILDLIFE; PROVIDING A PENALTY; AND PROVIDING FOR DISPOSITION OF RESTITUTION MONEY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Restitution for illegal killing or possession of certain wildlife. In addition to other penalties provided by law, a person convicted of the illegal killing or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state for EACH such bird, mammal, or fish according to the following schedule:

(1) bighorn sheep, mountain goat, caribou, buffalo, grizzly bear, moose, and endangered species, $1,000;

(2) SIX-POINT OR LARGER BULL elk, mountain lion, black bear, lynx, and wolverine, $500;

(3) FOUR-POINT OR LARGER BUCK deer, ~~antelope,~~ fisher, ~~raptors~~ RAPTOR, ~~swans~~ SWAN, bobcat, and ~~sturgeons~~ STURGEON, $300;

(4) paddlefish, grayling, and furbearers not listed in subsection (1), (2), or (3), $100;

(5) game ~~birds~~ BIRD (except ~~swans~~ SWAN) ~~and nongame birds (except raptors, rock doves, house sparrows, and starlings)~~ AND ~~TURKEYS~~ TURKEY, $25;

(6) game fish, $10.

SECTION 2. FINDING REQUIRED. BEFORE RESTITUTION MAY BE ORDERED PURSUANT TO [SECTION 1], THE FINDER OF FACT AT TRIAL OR THE COURT UPON ENTRY OF A GUILTY PLEA MUST FIND THAT SUCH ILLEGAL KILLING OR POSSESSION WAS DONE KNOWINGLY OR PURPOSELY AS DEFINED IN 45-2-101.

Section 3. Payment -- penalty for nonpayment. (1) In each case of conviction, the court before which the conviction is obtained shall order payment of the sum stated in [section 1].

(2) Failure to make payment in the time and manner prescribed by the court constitutes civil contempt of court and is punishable as provided in Title 3, chapter 1, part 5.

Section 4. Disposition of proceeds. All money collected by a court pursuant to [this act] must be remitted to the state treasurer for deposit in the state special revenue fund as provided in 87-1-601(1).

-End-

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

March 17, 1987

The thirteenth meeting of the Senate Fish and Game committee was called to order at 1:00 P.M. on March 17, 1987 by Chairman Ed Smith in Room 402 of the Capitol Building.

ROLL CALL: All members were present at roll call, with the exception of Chairman Smith who was temporarily excused to present a bill in another committee. Senator Bengtson was absent.

CONSIDERATION OF HOUSE BILL 322: Representative Ralph Eudaily, House District No. 60, stated that the bill was drafted at the request of the Department of Fish, Wildlife and Parks and is an act to establish blood alcohol standards for persons who operate motorboats, including sailboats which are propelled by a motor of any kind, or are manipulating water skis, surfboards, or similar devices attached to motorboats while under the influence of alcohol or drugs. The legislation is proposed so that an effective statute is on the books when a problem arises. The present statute is confusing. The language does not utilize recognized legal concepts used in drinking related offenses. The statutes do not contain standards constituting intoxication of being under the influence. Local prosecutors have experienced significant problems in proving contested charges under present statutes. The courts and prosecutors are familar with the term "under the influence", while the term "intoxicated" is not defined in the criminal law context. The standards proposed are the same as the motor vehicle standards for DUI's.

PROPONENTS

Dick Johnson, Fish, Wildlife and Parks Department, presented written testimony. (Exhibit 1)

OPPONENTS

There were no opponents to HB 322.

QUESTIONS FROM THE COMMITTEE

Senator Yellowtail queried committee members concerning similar legislation in Judiciary Committee that may be in conflict with this legislation.

Smoke Elser, Montana Outfitters and Guides Association, Missoula, stated that the association supports HB 533. The association handles disabled hunters and feels the disabled deserve that type of hunting recreational opportunities.

OPPONENTS

There were no opponents to HB 533.

QUESTIONS FROM THE COMMITTEE

Senator Jergeson asked if 25 licenses were enough. Johnson replied that it is impossible to say if the 25 licenses will cover the actual need.

Senator Yellowtail asked for an explanation why the Lewistown disabled hunting group could not obtain the needed antelope licenses. Senator Yellowtail asked if it was a function of a particular district. Mr. Johnson stated that was true, yet, there are some districts in Eastern Montana where the districts were virtually unlimited in regards to the availability of licenses. In some areas around Great Falls, larger Montana cities, or in Northeastern Montana, the permits are restricted to approximately 10 to 15 in the hunting districts. Senator Severson asked how a disabled person would choose what area they wanted to hunt in. Representative Campbell stated the proposed legislation would allow the applicant to apply by listing the first three choices. If there were 25 applications, the commission would determine the location of the hunt. If for some reason, all the applicants wanted a certain district and that district was limited as to the number of permits, the Commission would the second choice to the applicant. The Department would work towards a fair alternative.

Representative Campbell closed by saying the bill was drafted specifically for nonambulatory disabled hunters because under the disabled classification, many categories defining the nonambulatory disable are addressed. These hunters will be afforded the opportunity to have a successful hunt.

CONSIDERATION OF HOUSE BILL 329: Representative Bob Ream, House District 54, sponsor of the bill, stated that the bill is an act requiring restitution for certain illegal killing or possession of wildlife; providing a penalty; and providing for disposition of restitution money. The bill provides for restitution to the State of Montana for wildlife that is illegally taken. The state is reimbursed for the value of the wildlife taken, above and beyond any penalities that may be assessed in Court.

Dick Johnson, Fish, Wildlife and Parks, offered written testimony for HB 329. (Exhibit 4)

Janet Ellis, Montana Audubon Legislative Fund, presented written testimony to the committee in support of HB 329. (Exhibits 5, 6, and 7)

Jeanne Klobnak, Montana Wildlife Federation, stands in support of this bill.

Jeanne-Marie Souvgney, Montana Sierra Club, stated support of HB 329.

Jim Hanes, Montana Majestrates Association, representing the Justices of the Peace and City Judges, stated support of the bill with coordinating amendments to conform the bill to HB 740 being heard by Senate Judiciary Committee. HB 740 changes bookkeeping distribution system. HB 329 requires the Justices of the Peace to collect restitution money. HB 740 relieves the Justices of the Peace of that burden of collecting restitution money should it be made part of the law. The proposed amendment would essentially remove Justices of the Peace from the requirements of the bill. Fifty percent would go to the county under HB 740; and the other fifty percent would go to the state. The amendment is coordinating HB 329 with HB 740.

OPPONENTS

There were no opponents for HB 329.

QUESTIONS FROM THE COMMITTEE:

Senator Yellowtail asked Johnson if the department was able to evaluate the amendments by Ellis. Johnson found the amendments to be acceptable. Again, Yellowtail queried Johnson in regards to HB 740 addressed by Hanes. Johnson requested time to evaluate the policy decision of HB 740.

Hanes stated that the goal of HB 329 is to create a detrimental impact, a deterrent to violator. The money collected is the deterrent, so where ever the money goes, the money will not negate or diminish deterrent effect.

Senator Yellowtail stated that under the present drafting of HB 329, the collections would go to state special revenue fund as provided in 87.1601 Sub.1, which is the Fish, Wild Life and Park's general fund. There is a separate account for the retirement fund. It is not earmarked for one particular purpose.

Senator Severson asked if an individual was illegally picked up for shooting an elk or a moose, would the court be able to fine the individual for the illegal hunt. Would the individual be fined and be made to pay restitution. Yes. Senator Severson commented that the fine would be hefty.

Mr. Johnson reported that the fines are hefty. Wildlife is becoming very valuable. The going price of a trophy size sheep head is $5,000. Velvet antlers are valuable in the Orient trade. The restitution law would be an attempt to make fines compatible with the offense and illegal profit.

Stan Bradshaw commented on Senator Severson's scenario: The nonresident hunter who shoots a moose by mistake and goes directly to report the accident to the warden. Bradshaw stated that an amendment was placed on the bill by the House in order to resolve an identical situation. The amendment specifically excluded the accidental shooting, but goes after the premeditated hunter. The bill, as it is written addresses the individual who knowlingly hunts illegally.

Yellowtail questioned whether the amendment creates a burden of proof that may be impossible to define. Bradshaw reported that he did not think this to be the truth. It is a burden that is greater than simply going out and showing that someone has illegally killed an animal. The intent under the law can be shown by the surrounding actions of the individual who knowingly hunts illegally.

Hanes stated that purpose and knowledge can be shown by the surrounding circumstances.

Representative Ream closed by stating that there are cases when illegal hunters kill five elk, knowing well that it is illegal. These are situations that call for restitution. The bill calls for restitution to compensate the state for the value of the game taken. The true sportsmen are angered over the small fines that are assessed. The fines should be higher for the blatant cases of illegally taking wildlife. The wildlife resources are being lost. The bill will provide the minimum level of compensation to the state. Representative Ream pointed out to the committee that the "six point or larger bull" language should be deleted. Cow elk are certainly as important or more important when considering the herd population. Antelope should also be reconsidered.

Senator Yellowtail returned the gave to Chairman Smith, and closed the hearing of HB 329.

DISPOSITION OF HOUSE BILL 329: Senator Severson made a motion that the committee recommend a BE NOT CONCURRED IN. Senator Anderson stated the committee agreed that HB 740 would be considered before the final vote. Senator Yellowtail asked why Senator Severson objected to the bill. The fines are two large and it would be a double fine. The amendments made some improvement in the language. Senator Smith stated the purpose of the bill is to control bounty hunters from exporting the animals out of state. The fines are not large enough for the type of people that would illegally hunt trophy animals. This is a lucrative and illegal activity. Senator Bishop moved the amendments offered by Janet Ellis. (Exhibit 6) At the wisdom of the committee, the amendments will be examined by staff, Andrea Merrill.

DISPOSITION OF HOUSE BILL 568: Senator Jacobson stated the Department already had the authority to kill the buffalo when they crossed the state line. The 1985 legislation was not necessary. The way way the legislatsure could make the Department kill the bison was to enact the legislation. The Department will now repeal the law by the language: "other method".

Senator Smith stated the Department must kill the buffalo coming out of the park because of statutes. Senator Jergeson stated that there is not a fence or a can of mace that is "large enough" to contain a buffalo.

Mr. Johnson stated that the bison hunting season is administered by the Department of Fish, Wildlife and Parks

The Statement of Intent states the Legislature encourages further negotiation and cooperations between the Department of Fish Wildlife and Parks and the National Park Service to seek other means or methods of controlling, as soon as possible, the migration of wild buffalo into Montana from Yellowstone National Park. The new bill with the amendment would put the legislative intent into law.

Senator Jergeson stated the Legislative intent is to be a control issue. Mr. Johnson stated the bill was drafted because of the concern that 2,000 buffalo would migrate out of the Gardiner area at one time and be eliminated.

The Department will continue to shoot the buffalo as they come out of the Park.

Senator Jergeson moved that the committee reconsider action on HB 568. The motion carried unanimously. Senator Jergeson made a motion to table House Bill 568. The motion passed unanimously.

DISPOSITION OF HOUSE BILL 329: Senator Yellowtail discussed the amendment concerning magistrates and the collection and distribution of fines. As the bill is written presently, the department collects 100% of the fines, but the magistrate's bill would standardize the collection and distribution of the fine. The proposed magistrate's amendment would amend a coordination instruction. Therefore, the department would get 50% of the fine, and the county would get 50%. This is a major policy decision. The Department and the Magistrate employees are in dialogue concerning this issue. Action on HB 329 will take place at a future committee hearing.

ADJOURNMENT: There being no further business before the Senate Fish and Game Committee, the meeting was adjourned at 2:35 p.m.

Ed Smith

SENATOR ED SMITH, Chairman

ROLL CALL

SENATE COMMITTEE--FISH AND GAME

50TH LEGISLATIVE SESSION - 1987

+ + + +

SENATE FISH AND GAME
EXHIBIT NO. 4
DATE 3-17-87
BILL NO. HB 329

HB 329
March 17, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

Montana has some of the best fish and wildlife resources still available to the public within the continental United States. As other states have experienced expanded population growth and the accompanying development, Montana's resources have risen in relative quality.

As demand for our fish and wildlife resources becomes more important, they also become more susceptible to illegal hunting and fishing. We are aware of this susceptibility and have taken some steps to address it.

With the support of the public and the legislature, we have increased our enforcement capability and developed closer ties with enforcement officials of other states and the federal government. In addition, the 1985 legislature authorized the Tip Mont Program, designed to curb poaching. During its first year this program led to 79 investigations and 21 arrests, with fines in excess of $22,000.

Today the black market in wildlife seeks out items such as trophy heads and skins, velvet elk antlers, grizzly and black bear parts, eagle feathers and birds of prey.

The department supports the House amendment requiring a finding that the criminal act must have been done knowingly or purposely before a restitution penalty is ordered. A person who was only negligent or careless would not be subject to the penalty. However, a person who knew he was committing an act that is illegal or acted with the purpose of committing an act that is illegal would be subject to the penalty.

The civil restitution legislation would enable the citizens of Montana to redeem the value of illegally taken animals. A $500 fine for a trophy elk or Rocky Mountain sheep worth over $5,000 on the black market does not act as sufficient deterrent. Civil restitution would force a violator to pay for the value of that wildlife to Montana's citizens.

We recommend your approval of this bill.

Montana Audubon Legislative fund testimony on HB 329 by Janet Ell

SENATE FISH AND GAME
EXHIBIT NO. #5
DATE March 17
BILL NO. HB 329

HB 329: Restitution for illegally taking wildlife

-HB 329 sets up schedule for illegally taking wildlife

-Idea behind bill is to equalize the penalties assessed on illegally taken wildlife throughout the state.

-certain judges always charge poachers the lowest possible fine - treating wildlife offenses like"parking tickets."

-Examples:
1) Recently a bighorn sheep ram was poached and the poacher was charged a $500 penalty for the offense.
2) Another incident happened near Kalispell where a man killed 2 bull moose, left one to rot, and was convicted and charged a $300 fine.

-Judges still have the ability to assess a charge for breaking the law. This does not take that away from them. Additionally, Montana would get some of the value of the lost wildlife back.

-The restitution money goes back to the resource by supporting the operating budget of Fish, Wildlife & Parks. This point is worth emphasizing: current fine money collected by FWP (with the exception of boating and snowmobile fines) are earmarked by the legislature to pay the unfunded liability of the game warden's retirement system. If additional fines are levied, we feel that the resource should benefit from those fines.

-If a person has caught "one over the limit" The person gets to keep his/her legal limit. The only fine that could be assessed is for the illegally taken fish or game.

-What about landowners defending their property from depredating animals? In the Supreme Court case of the State vs Rathbone, it was clearly established that landowners can defend their property from depredating animals. Landowners would hence be not fined if they were protecting their property. Must contact FWP before acting.

-HB 329 is especially important because of the increase in commercial poaching operations in Montana:

1) Operation Trophy Kill a few years ago confiscated a long list of animals (see attached sheet).

2) In June, 1986, the following animals were confiscated from one individual:

3 grizzly bears	4 mule deer mounts
1 mountain goat mount	1 6'X7' elk rack
1 black bear cub mount	1 4'X4' mule deer rack
3 whitetail deer mounts	

BACKGROUND:

- 10 states were surveyed to set up the restitution schedule found in this bill: Arizona, Washington, Idaho, Colorado, Oregon, Nevada, South Dakota, Nebraska, Tennessee, & Michigan.

-The penalties set in this bill reflect average values seen in other states (although there is obviously some variation among states): Example: Bighorn Sheep: Arizona (lowest) at $500, most states at $1000 (including Montana in HB 329), So. Dakota high at $10,000.

SENATE FISH AND GAME
EXHIBIT NO. #6
DATE March 17
BILL NO. HB329

Amendments to HB 329

1. Page 1, line 18
   Following: "(2)"
   Strike: "SIX-POINT OR LARGER BULL"

2. Page 1, line 20
   Following: "(3)"
   Stike: "FOUR-POINT OR LARGER BUCK"

3. Page 1, line 20
   Following: "deer,"
   Insert: "antelope"

These 3 amendments restore penalties for deer, elk and antelope.

4. Page 1, line 25
   Following: "SWAN)"
   Insert: "and nongame birds (except raptors)"

5. Page 1, line 21
   Following: "and"
   Insert: "pallid and white"

6.a. Page 2, line 20
   Strike: "AND TURKEY"

b. Page 2, line 20
   Strike: "AND TURKEY"

   Page 1, line 23
   Following: "grayling"
   Insert: "turkey"

One of these two amendments need to be accepted.

MEMORANDUM

Oct, 1984

11

ıcies and location of known kills in Montana

n guided hunts

Bear Creek, Jardine
Sphinx Creek, Gardiner
Wine Glass Mtn., Livingston
West Boulder, Livingston
Hellroaring Creek, Gardiner
Arch Lake, Columbus
Townsend

ents and offered for sale

Townsend
Townsend
Townsend
Townsend
Deer Creek, Big Sky
Big Sky
Miner Basin, Gardiner
Cinnibar Mtn, Gardiner
Gardiner Area
Boulder River, Big Timber
Stillwater River, Columbus
Hellroaring Creek, Gardiner
Yellowstone National Park
West Boulder, Livingston
West Boulder, Livingston
Gardiner Area
Gardiner Area
Pray Area
Wineglass Mtn., Livingston
Crazy Mtns. Big Timber
Hellroaring Creek, Gardiner
Slough Creek, Gardiner
Main Boulder River
West Boulder, Livingston

d two other groups that are working similar
in the Gravelly and the other around Big
t we are not aware of.

means of taking stock-killing bears, stock-killing mountain lions, and stock-killing bobcats may be used except the use of the deadfall.

(2) Traps used in capturing bears shall be inspected twice each day with the inspections 12 hours apart.

History: En. Sec. 14, Ch. 238, L. 1921; re-en. Sec. 3694, R.C.M. 1921; amd. Sec. 5, Ch. 77, L. 1923; amd. Sec. 15, Ch. 192, L. 1925; amd. Sec. 12, Ch. 59, L. 1927; amd. Sec. 1, Ch. 162, L. 1931; amd. Sec. 1, Ch. 159, L. 1941; amd. Sec. 5, Ch. 224, L. 1947; amd. Sec. 1, Ch. 157, L. 1949; amd. Sec. 1, Ch. 126, L. 1951; amd. Sec. 1, Ch. 223, L. 1953; amd. Sec. 1, Ch. 193, L. 1955; amd. Sec. 1, Ch. 53, L. 1963; amd. Sec. 1, Ch. 34, L. 1967; amd. Sec. 1, Ch. 90, L. 1969; amd. Sec. 1, Ch. 201, L. 1969; amd. Sec. 1, Ch. 177, L. 1971; amd. Sec. 1, Ch. 124, L. 1973; amd. Sec. 1, Ch. 305, L. 1973; amd. Sec. 1, Ch. 108, L. 1975; amd. Sec. 1, Ch. 152, L. 1975; amd. Sec. 9, Ch. 9, L. 1977; amd. Sec. 1, Ch. 196, L. 1977; amd. Sec. 3, Ch. 235, L. 1977; amd. Sec. 1, Ch. 400, L. 1977; amd. Sec. 13, Ch. 417, L. 1977; amd. Sec. 1, Ch. 485, L. 1977; R.C.M. 1947, 26-301(part (5)(a)).

87-3-128. Exceptions -- department personnel. The provisions of this chapter relating to methods of herding, driving, capturing, taking, locating, or concentrating of fish, game animals, game birds, or fur-bearing animals do not apply to the department or to any employee thereof while acting within the scope and course of the powers and duties of the department.

History: En. Sec. 14, Ch. 238, L. 1921; re-en. Sec. 3694, R.C.M. 1921; amd. Sec. 5, Ch. 77, L. 1923; amd. Sec. 15, Ch. 192, L. 1925; amd. Sec. 12, Ch. 59, L. 1927; amd. Sec. 1, Ch. 162, L. 1931; amd. Sec. 1, Ch. 159, L. 1941; amd. Sec. 5, Ch. 224, L. 1947; amd. Sec. 1, Ch. 157, L. 1949; amd. Sec. 1, Ch. 126, L. 1951; amd. Sec. 1, Ch. 223, L. 1953; amd. Sec. 1, Ch. 193, L. 1955; amd. Sec. 1, Ch. 53, L. 1963; amd. Sec. 1, Ch. 34, L. 1967; amd. Sec. 1, Ch. 90, L. 1969; amd. Sec. 1, Ch. 201, L. 1969; amd. Sec. 1, Ch. 177, L. 1971; amd. Sec. 1, Ch. 124, L. 1973; amd. Sec. 1, Ch. 305, L. 1973; amd. Sec. 1, Ch. 108, L. 1975; amd. Sec. 1, Ch. 152, L. 1975; R.C.M. 1947, 26-301(10); amd. Sec. 9, Ch. 44, L. 1979.

87-3-129. Exception in cases of extreme hunger. When it is shown that any violation of the provisions of this title was for the purpose of preventing great suffering by hunger of any person which could not otherwise have been avoided, the provisions of this title shall not apply to the case.

History: En. Sec. 79, Ch. 173, L. 1917; re-en. Sec. 3758, R.C.M. 1921; re-en. Sec. 3758, R.C.M. 1935; amd. Sec. 25, Ch. 9, L. 1977; R.C.M. 1947, 26-1006.

87-3-130. Taking of wildlife to protect persons or

87-3-129. This section makes it clear that the restitution penalties will not apply to persons who need food for survival.

#6 3-17-87 HB 329

87-1-225. Regulation of wild animals damaging property. Upon the request or complaint of any landholder or person in possession and having charge of any land in the state that wild animals of the state, protected by the fish and game laws and regulations, are doing damage to the property or crops thereon, the department shall investigate and study the situation with respect to damage and depredation. The department may then decide to open a special season on the game or, if the special season method be not feasible, the department may destroy the animals causing the damage. The department may authorize and grant the holders of said property permission to kill or destroy a specified number of the animals causing the damage. No wild ferocious animal damaging property or endangering life shall be covered by this section.
History: En. Sec. 1, Ch. 60, L. 1957; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-135.

87-1-226. Disposition of meat of animals damaging property. The meat of all animals killed or destroyed pursuant to 87-1-225 by the department or the authorized landholder shall be conserved and given to state institutions, school lunch programs, or the department of social and rehabilitation services. The department shall provide transportation and distribution of the meat.
History: En. Sec. 2, Ch. 60, L. 1957; amd. Sec. 22, Ch. 511, L. 1973; R.C.M. 1947, 26-136.

87-1-227. Hunting rights on adjoining federal wildlife preserve. (1) The department shall negotiate for and enter into written agreements with owners, lessors, lessees, or others having control of areas, tracts, or parcels of land adjoining or contiguous to any United States federal wildlife preserve, including any wildlife refuge for migratory waterfowl in any section of Montana, for the purpose of securing equal hunting and shooting rights for all resident holders of fish and game licenses in Montana on such adjoining and contiguous lands and preventing such preserves from being surrounded by lands whereon such licensees may not enter. The department shall, further, open or cause to be opened to public hunting and shooting of migratory waterfowl on any roads, lanes, and trails not a part of the traveled portion of any federal-aid highway system within a 1-mile limit from the boundaries of any such preserve or refuge. The department shall cause any such area, tract, road, lane, or trail to be plainly posted with clear signs showing the boundaries of the areas, tracts, roads, lanes, or trails open to shooting and hunting by licensees.
(2) The department is hereby authorized to negotiate the payment of a reasonable sum to landowners, lessors, or lessees for the right of the department to create a public shooting area upon their lands. The amount that may be paid for such purpose shall rest in the discretion of the department.
History: En. Secs. 1, 2, Ch. 224, L. 1943; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1120, 26-1121.

87-1-228. Agreement with Indians concerning hunting and fishing -- Indian treaty of 1855. (1) Whereas, by treaty of July 16, 1855, between the United States of America, represented by Isaac I. Stevens, governor and superintendent of Indian affairs for the territory of Washington, and the chiefs, headmen, and delegates of the confederated tribes of the Flathead, Kootenai, and Upper Pend Oreille Indians, the said Indians were given the exclusive right to fish and hunt on the Flathead Indian reservation and the

#6 3-17 (3) HB 329

87-1-225. If an animal is "protected" under Montana law, this section gives the Department of Fish, Wildlife & Parks the authority to destroy an animal that is causing damage to property or crops.

(5) Money derived from tax checkoff contributions to the account will replace license fee funding for nongame wildlife programs after June 30, 1985, and may not be used to replace money that would otherwise be appropriated for nongame wildlife programs.

(6) The department of revenue may deduct from collections an amount not to exceed $7,884 in fiscal year 1986 and $7,884 in fiscal year 1987 for administering the voluntary checkoff program. The department is authorized to spend the amounts and hire necessary personnel and shall provide an itemized accounting to the legislative finance committee of the cost of administering the checkoff program during fiscal years 1986 and 1987. (Terminates December 31, 1987--sec. 7, Ch. 627, L. 1983.)

History: En. Sec. 2, Ch. 627, L. 1983; amd. Sec. 48, Ch. 281, L. 1983; amd. Sec. 2, Ch. 436, L. 1985.

87-5-122. (Temporary) Duties of commission. (1) The commission shall review and approve annually the nongame wildlife programs projects recommended by the department for funding from the nongame wildlife account. The commission shall provide for public comment during the review and approval process.

(2) The commission may adopt rules governing:

(a) the use of the nongame wildlife account set forth in 87-5-121; and

(b) the review and approval process set forth in subsection (1). (Terminates December 31, 1987--sec. 7, Ch. 627, L. 1983.)

History: En. Sec. 4, Ch. 627, L. 1983.

87-5-123. (Temporary) Report. The department shall report to the 50th legislature the results of any program using money from the nongame wildlife account and shall list in detail how the money collected was used. (Terminates December 31, 1987--sec. 7, Ch. 627, L. 1983.)

History: En. Sec. 5, Ch. 627, L. 1983.

Part 2
Wild Birds -- Regulation of Raptors

87-5-201. Protection of wild birds and their nests and eggs. (1) It is unlawful for a person to hunt, capture, kill, possess, purchase, offer or expose for sale, ship, or transport any wild bird, other than a game bird, or any part of the plumage, skin, or body of the bird, irrespective of whether the bird was captured or killed within the state, or to take or destroy the nest or eggs of a wild bird, except under a certificate, falconer's license, or permit issued by the director.

(2) This section does not apply to:

(a) the hunting, trapping, or killing of house sparrows, crows, starlings, rock doves, blackbirds, magpies, and other birds the department designates or to the taking or destruction of their nests and eggs;

(b) the possession or transportation of parts or plumage of eagles used for religious purposes by a member of an Indian tribe when possessed or transported as permitted by 16 U.S.C. 668a.

History: En. Sec. 41, Ch. 173, L. 1917; re-en. Sec. 3723, R.C.M. 1921; amd. Sec. 18, Ch. 77, L. 1923; amd. Sec. 20, Ch. 59, L. 1927; re-en. Sec. 3723, R.C.M. 1935; amd. Sec. 16, Ch. 224, L. 1947; amd. Sec. 2, Ch. 309, L. 1971; amd. Sec. 33, Ch. 511, L. 1973; amd. Sec. 38, Ch. 9, L. 1977; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-501; amd. Sec. 1, Ch. 301, L. 1983.

87-5-201. Under this section it is made clear that the hunting and killing of depredating birds such as crows and magpies is allowed.

#6
3-17
HB 329
35

History: En. Sec. 3, Ch. 309, L. 1971; amd. Sec. 34, Ch. 511, L. 1973; amd. Sec. 1, Ch. 34, L. 1974; amd. Sec. 39, Ch. 9, L. 1977; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-501.1(10), (11).

87-5-208. Nonresidents allowed raptors in state. Nonresidents who are working, attending schools, or otherwise living temporarily in the state of Montana may obtain a Montana falconry license and bring raptors, legally acquired in other states or countries, into the state of Montana. Such nonresidents shall be allowed to hunt with falcons in the state of Montana subject to all Montana laws and rules.

History: En. Sec. 3, Ch. 309, L. 1971; amd. Sec. 34, Ch. 511, L. 1973; amd. Sec. 1, Ch. 34, L. 1974; amd. Sec. 39, Ch. 9, L. 1977; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-501.1(16).

87-5-209. Destruction of eagles or predatory hawks and owls. Predatory hawks and owls destroying livestock or poultry may be killed at any time by the livestock or poultry owners. Eagles may be killed in compliance with federal law and regulation.

History: En. Sec. 3, Ch. 309, L. 1971; amd. Sec. 34, Ch. 511, L. 1973; amd. Sec. 1, Ch. 34, L. 1974; amd. Sec. 39, Ch. 9, L. 1977; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-501.1(17).

Part 3

Grizzly Bear and Wild Buffalo

87-5-301. Policy toward grizzly bear. It is hereby declared the policy of the state of Montana to protect, conserve, and manage grizzly bear as a rare species of Montana wildlife.

History: En. Sec. 1, Ch. 134, L. 1969; R.C.M. 1947, 26-307.2.

87-5-302. Commission regulations on grizzly bear. The commission shall have authority to provide open and closed seasons; means of taking; shooting hours; tagging requirements for carcasses, skulls, and hides; possession limits; and requirements for transportation, exportation, and importation of grizzly bear.

History: En. Sec. 2, Ch. 134, L. 1969; R.C.M. 1947, 26-307.3.

87-5-303. Wild buffalo protected. It is unlawful to hunt, shoot, kill, capture, or possess wild buffalo except as permitted by rules adopted by the department.

History: En. Sec. 4, Ch. 167, L. 1973; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-301.1.

87-5-209. Under this section eagles, hawks & owls destroying livestock or poultry may be killed.

SENATE FISH AND GAME
EXHIBIT NO. #7
DATE March 17
BILL NO. HB 339

Missoulian Friday Oct. 10, 1980

Warden nabs greedy anglers

DILLON (AP) — A pair of California fishermen had good luck fishing the Big Hole River and other southwestern Montana trout streams last week — a little too good, state wildlife officials said.

The two men were cited for having too many trout in their possession after being found with 187 trout during a random check by a game warden.

The men, Frank Sanchez, 52, of Sunvale, Calif., and Frank Benassi, 51, of San Jose, each posted $500 bond and returned to California late last week.

State Warden Sarge Hoehm said he stopped to check the men's licenses last Thursday and became suspicious when the men told him they had caught 30 or 40 fish.

He asked to check their cooler found it was full of food, but a refrigerator in their motor home was "stuffed full of fish."

"That was the most fish I ever spotted by far," Hoehm told the Dillon Tribune-Examiner. "I once got 38 fish on an undercover operation. I just could not believe it."

Hoehm alleged the men had in their possession 97 brown, rainbow or cutthroat trout and 90 brook trout. They had been fishing in southwestern Montana, including trout streams such as the Big Hole and Beaverhead rivers, for a week.

The warden cited them for possession of unlawfully taken game fish and violation of possession limits.

Californians pay $1,000 for 187 illegal fish — Page 5

Californians nabbed with 187 fish

DILLON — A local game warden's random fishing license check of two California men led to the discovery of a cache of 187 illegal fish and hefty fines for the pair.

Frank Benassi of San Jose and Frank Sanchez of Sunnyvale, each forfeited $500 bonds in Justice of the Peace Dick Later's court on misdemeanor charges of possession of unlawfully taken fish and taking over the limit of game fish.

State Department of Fish, Wildlife and Parks warden Sarge Hoem said the men had more than 100 brook trout in their possession. The limit is 20 fish each, he said.

They also had nearly 50 rainbows, cutthroats and brown trout in their possession. The limit on those fish is five fish per man with only one fish over 18 inches allowed.

The majority of the catch "were good pan fish" size, Hoem said. "They didn't have any trophy fish."

The Californians had been fishing Sheep and Red Rock Creeks south of Dillon; the Big Hole River and Governor Creek, northwest of Dillon; and the Ruby River in Madison County. They arrived in the area for their fishing excursion Sept. 25 and before their arrest Oct. 1, planned to leave the next day.

The fish will be sold at public auction Thursday at 5:30 in the Beaverhead County courthouse back parking lot. The sale will also include confiscated elk and deer meat.

SENATE FISH AND GAME
EXHIBIT NO.
DATE
BILL NO.

TO: REP. BOB REAM

FROM: Jim Haynes, Montana Magistrate's Association Lobbyist

RE: H.B. 329 - Coordination with H.B. 740

DATE: March 17, 1987

H.B. 740 amends sixty-four (64) existing code sections to relieve Justice Courts of their current burdensome bookkeeping method without shifting the work to any other agency.

A coordinating amendment as follows would conform H.B. 329 with H.B. 740:

H.B. 329, Page 2, Line 17, "EXCEPT MONEY PAID TO A JUSTICE COURT"

Pursuant to [H.B. 740]

TESTIMONY OF STAN BRADSHAW
MONTANA STATE COUNCIL, TROUT UNLIMITED
MARCH 16, 1987

Mr. Chairman, members of the Committee, my name is Stan Bradshaw. I am testifying on behalf of the Montana State Council of Trout Unlimited. Trout Unlimited is dedicated to the conservation of Montana's cold water fishery in Montana. To that end, we have always supported laws and regulations which would enhance cold water fisheries in Montana. We believe that H.B. 329 will be an important asset in the state's conservation efforts.

Recently, there has been considerable abuse of the state's bag limits on both trout and kokanee salmon. Existing penalties have not provided sufficient inducement to obey hunting and fishing regulations. H.B. 329 provides a penalty comensurate with the size of the infraction. It provides additional leverage to the department in its efforts to curb violation of the state's fish and game laws. Therefore Trout Unlimited urges the Committee to support the passage of H.B. 329.

INDEPENDENT
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FROM MONTANA'S CAPITAL
RECORD

SUNDAY
MORNING
February 1, 1986
Helena, Montana
Vol. 43 No. 72

Outfitter trial

S. Dakota hunters awarded $5,200

By JILL SUNDBY
IR Staff Writer

The two South Dakota brothers who sued outfitter Tag Rittel of Wolf Creek for fraud and unfair business practice were awarded $5,200 in Helena District Court Saturday.

Lloyd and Larry Weaver's suit stated they had signed up for a 10-day hunting trip with two guides — including Rittel — and that they were promised a grizzly hunt.

THE BROTHERS DID not recieve Rittel as a guide, and they alleged that the guides they did get were inexperienced, had never been in that particular hunting area (the Scapegoat Wilderness) before and had never hunted grizzlies.

The 12-person jury deliberated more than 12 hours, according to jury foreman David Maughan, but finally came to a unanimous verdict around 1 a.m. Saturday.

"WE WERE CAUTIOUS and we wanted to be fair," said Maughan when asked why a unanimous verdict took so many hours. During the deliberation "there were times we were not in agreement, but by the time we were polled in the courtroom we were unanimous."

He said they spent two-thirds

(More TRIAL, back page)

Trial

Continued from Page 1A

of their deliberation time deciding on the monetary consideration. The plaintiffs asked for $25,000 in actual and emotional damages, and unspecified punitives.

BECAUSE THE HUNT was planned mostly by telephone, "it took awhile to decide what the contractual basis of their hunt was," said Maughan.

He said the jury finally decided the Weavers had been wronged under the Montana Consumer Protection Act and that "Mr. Rittel or his agents did not present the full picture."

RITTEL HAD SOLD his outfitting business prior to the Weaver's hunt, and Maughan said Rittel neglected to tell the Weavers of this change of ownership.

Maughan said Rittel should have informed the Weavers he would not be their guide. (Rittel has a reputation for having good luck in hunting grizzlies, and the Weavers wanted him as their guide.)

The defense argued the Weavers were not specifically promised a grizzly hunt nor specifically promised Rittel as a guide.

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Meagher County News

White Sulphur Springs, Montana 59645—Thursday, December 6, 1984 PRICE 25 CENTS

Unscrupulous hunting consultant . . .

Hunting license transfers bring justice court charges

"This is just the tip of the iceberg" stated Montana Department of Fish, Wildlife and Parks Warden Gene Clark in describing the uncovering of a Michigan hunting consultant's transfer of nonresident hunting licenses to his clients who were unable to obtain the proper licenses in legal state drawings. Clark said that he is presently heading up an investigation which involves game wardens in Kansas, Michigan, Wyoming and Montana and that more charges will be forthcoming as the investigation unravels additional evidence.

Dennis Salsgiver of Davison, Michigan, who operates Grand Slam Hunting Consultants, plead guilty to a charge of transfer of license, a misdemeanor, in Justice of the Peace Court of Vernon Meyers Monday, November 26. A second charge of solicitation to hunt a big game animal within the State of Montana without first having obtained a proper license or permit to do so, was dropped in a plea bargain agreement reached with Meagher County Attorney John V. Potter. Salsgiver was fined $500 and forfeited hunting and fishing privileges and licenses within the State of Montana for a period of 24 months after date of his conviction.

Two hunters from Overland Park, Kansas, an outfitter from Livingston, and a couple from Flint, Michigan were involved in the original case against Salsgiver.

Clark went on to say "It looks like transfer, even buying and selling of the B10 $300 non-resident license may be more than just an occasional happening, but a thriving black market. With the limit of 17,000 and the speed of sell out, they will even be more endeared to the hunter of the future with no limit to the imagination of the unscrupulous booking agent like Salsgiver."

Clark further pointed out that these agents, like a travel agent, furnish a valuable service to both the hunter and the outfitter, but that there is no room in the hunting world for the dishonest types. "Clean up or stay out of Meagher County" was his comment.

Warden Clark went on to describe how the investigation uncovered Salsgiver's operation and the ultimate charges brought against him.

The first time that Warden Clark learned of Dennis Salsgiver was during a conversation with rancher-outfitter Bill Galt while Clark and Galt were discussing the 1984 hunting season and an upcoming trophy auction of confiscated items to be held in Bozeman. Galt told Clark that he was working with a booking agent named Dennis Salsgiver and that he also had expressed an interest in the trophy auction.

Galt, Clark and rancher Bill Loney made plans to attend the trophy auction, but when time came to go, Galt and Loney were unable to attend. Clark on his day off, his wife Alice and Pam Loney, Bill's wife, attended the sale.

During the sale a person doing a lot of bidding and buying attracted Clark's attention and upon checking with a clerk at the auction Clark learned that the buyer was Dennis Salsgiver. Eleven different lots at the auction went to Salsgiver, including a black bear cape, a mountain lion hide, five bighorn sheep horns and four bighorn sheep capes for which he paid a total of $1,635.00.

Later on in late June or July, when Clark was discussing the upcoming fall hunt with Bill Galt, the name of Salsgiver again came up. Salsgiver had promised to book a certain number of whitetail deer hunts for Galt for a free deer hunt for himself. When Galt contacted Salsgiver to see if he could still find a hunter or two, he was informed that it would be no problem. Galt questioned Salsgiver about the fact that all the licenses had been sold, but he was told that would not be a problem.

Early in September Clark went on to state that he had learned that outfitter Doug Caltrider was also booking hunters through Dennis Salsgiver, doing business as Grand Slam Hunting Consultants. Part of the booking bargain was also a free hunt with Caltrider.

A young couple from Flint, Michigan, Thomas and Nancy Durance, booked hunts through Dennis Salsgiver for elk and mule deer with Doug Caltrider and at the same time booked a whitetail deer hunt with Bill Galt.

The Durances, who had obtained their B10 non-resident elk and deer tags during the first come, first served non-resident quota of 17,000 licenses, were instructed by Salsgiver to apply for Deer B tags for Area 446, the whitetail area where they wanted to hunt with Galt. After the drawing, when the Durances found out that they were unsuccessful in obtaining the Deer B tags, they contacted Salsgiver, expressing concern over the fact that they already had booked the whitetail deer hunt, but now had no tags to hunt with.

Salsgiver told them at that time that tags would be no problem, and before the Durances left for Montana, Salsgiver personally gave Thomas Durance a nonresident Montana Hunting license that had been issued to Ralph E. Dawson of Overland Park, Kansas. The license was a B10 non-resident license, with all tags attached plus a 1984 archery stamp on the back. He also stated to Durance that he would make sure that Galt would have the other license for them when they arrived to hunt whitetail deer.

Salsgiver travelled to Montana to hunt whitetails with Galt before the Durances arrived. Salsgiver hunted with legal Montana licenses, a B10 $300 non-resident license and a non-resident Deer B tag for Area 446 good for either-sex whitetailed deer. At no time was any discussion had that he would be leaving any sort of license for the Durances during his deer hunt with Galt.

The Durances hunted with Doug Caltrider for their booked hunts, with Thomas Durance killing a 5x5 bull elk and a small whitetail buck and Nancy Durance killing a 4x4 bull elk and a 5x5 mule deer buck. With the taking of the elk and deer with Caltrider, the legally issued licenses of the Durances were used up. Caltrider recorded the names of the Durances, their license numbers and the type of game taken in his outfitter's log, required to be kept and submitted by all licensed outfitters in the State of Montana.

Although Salsgiver had been in the area hunting with Galt, he did not hunt with Caltrider.

After the deer and elk hunt with Caltrider, on November 5, the Durances and Caltrider met with Bill Galt for the whitetail deer hunt. The subject of deer tags came up in the conversation and Galt asked to see their licenses. At that time the license made out to R. E. Dawson was presented with the statement that Galt was supposed to have the other license for them.

The Durances stated that Galt was surprised and upset when the Dawson license was presented and the statement made that he was supposed to have a deer license for them. He told them that he was not taking them hunting without valid tags or with someone else's tags.

(Continued on Page Two)

Illegal-hunting sting hauls in 34 suspects

By LORNA THACKERAY
Of The Gazette Staff

Thirty-four people, including 11 Montanans, were arrested Thursday morning at the conclusion of a two-year undercover operation aimed at illegal hunting and trading in big game animals.

Some of the arrests resulted from an undercover tanning and taxidermy business operated in Colorado by the U.S. Fish and Wildlife Service. Others stemmed from illegal hunts arranged in Montana just outside the Yellowstone Park area.

"They've been bleeding those mountains around here," one Sweet Grass County official said after the arrests. He said illegal hunting had a significant impact on the number of animals found in the area.

Seventeen felony warrants and one misdemeanor complaint were filed by Pete Dunbar, U.S. attorney for Montana, in "Operation Trophy Kill." The remaining indictments came from Colorado. People from nine states will be charged.

U.S. Magistrate Jack Shanstrom arraigned 13 defendants Thursday in Livingston. Bonds for the suspects ranged from $25,000 to $350,000. These defendants will enter pleas to the changes before U.S. District Judge James Battin 10 a.m. Tuesday.

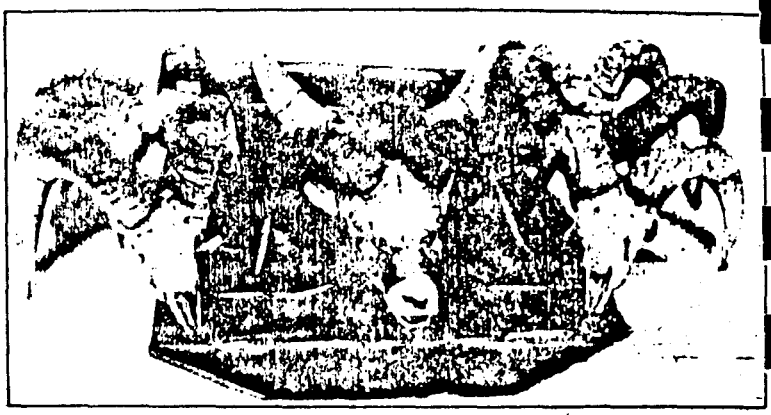
This is the second major wildlife case brought in Montana in the last four months. More than 30 people were arrested at the end of June in connection with an undercover investigation involving smuggling of endangered birds of prey.

Among those arrested was Loren J. Ellison, 33, of Livingston, who was charged with 14 counts of illegal sale and transportation of wildlife. Bond for Ellison was set at $350,000. Ellison was arrested on similar charges last month in a sting investigation by Sweet Grass and Park County officials.

According to Dunbar, federal agents used the tanning and taxidermy business to detect smuggling of wildlife skins into the United States and to uncover trade in protected species of big game and rare birds.

Some charges allege illicit trade to the Orient, where certain wildlife parts, such as elk antlers in velvet, are believed to have medicinal and aphrodisiac powers. He said federal agents also posed as hunters to gather evidence on illegal hunts organized by some of the defendants.

(More on Trophy, Page 12A)



Three Bighorn sheep skulls and heads, above, taken or possessed illegally were part of the evidence gathered in Operation Trophy Kill. Also seized in the sting were the two spotted skins of endangered cheetah and jaguar, left, smuggled into the United States.

U.S. Fish & Wildlife Service

COMMITTEE ON Senate Fish & Game DATE March 17, 1987

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Oppose
Janet Ellis	MT Audubon	HB 329 HB 424	✓ ✓	
Geoff Anderson	self	HB 329	✓	
Peter Funk	Dept of Fish, Wildlife + Parks	HB 332		
Dick Johnson	Dept Fish Wildlife + Parks			
Clinton Stutten	—			
Elizabeth Russell	Shelby High			
Dan Fosdal	Shelby High			
Burn Alkire	"			
Steve Brooks	"			
Jack Wilson	"			
Mike Logan	"			
John McCarter	"			
Paul Briandt				
Ralph Eudaily	Rep. H. D60 – Musical			
Smoke Elsaer	M.O.G.A.	533	✓	
Roy Curtiss	MOGA	533	✓	
Johnne Klokmak	MWF ☺	324	✓	
Neal Larkin	self	568	✓	
HARRY FEITZ	H.D 56	568		
Klaus Teigen	Mt Stockgrowers + Cattle women	568	✓	
Stan Bradshaw	Trout Unlimited	329	✓	
Jeanne-Marie Souvigney	MT Sierra Club	329	✓	
Jodi King	Shelby High			
Nancy Wildtrudt	"			
Dan R. Stamm	Prickly Pear Sportsmen Ass.	HB 535		✓

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

March 26, 1987

The meeting of the Senate Fish and Game Committee was called to order at 12:30 P.M. on March 26, 1987 by Chairman Ed Smith in Room 325 of the Capitol Building.

ROLL CALL: All member of the committee were present at roll call.

CONSIDERATION OF HOUSE BILL 530: Representative Orval Ellison House District No. 81, sponsor of the bill, stated that the bill is an act to permit the sale of progeney raptors held for breeding purposes. The proposed bill would put Montana law in "sync" with the federal law. The raptor breeding projects are expensive and are monitered closely by the Fish, Wildlife and Parks Department.

PROPONENTS:

John Tubbs, Bozeman, MT, representing the Montana Falconers' Association, stated support of House Bill 530. Mr. Tubbs stated that the bill would bring Montana's regulations into "sync" with federal regulations on the sale and captive breeding of falcons. The federal propagation regulations were designed to encourage, captive production of raptors for conservation, recreation, scientific and breeding purposes. The legislation would increase genetic diversity in captive populations and would alleviate human pressures to wild populations of the raptors. Twenty states have adopted the proposed legislation. North Dakota is in the process of adopting said legislation at the present time. Montana would be the last state in the Northwest accepting the federal regulations. The International Association of Fish and Wildlife Agencies supports the drafted legislation. Mr. Tubbs stated the number of peregrine falcons held for breeding purposed has tripled, the number of young produced has doubled, and the number of peregrines donated for conservation has almost doubled. Commercialism would be difficult because the seamless band required for all captive birds of prey cannot be removed. The band is attached at an early age. The rules for recording when an egg is laid until it is hatched restricts the taking of birds from the wild and placed in captive breeding projects. Raptors and parts of the raptors are currently owned and controled by the federal government due to the mandate of the Manditory Bird Treaty. The project cannot be considered a privatization of wildlife. The federal government owns and controls the adult birds, the young, the eggs and the offspring whether the birds are sold or not sold. Mr. Tubbs compared the

sport of falconry and limited to eagles taken because of deprecation or eagles that have survived a bad accident. Senator Severson moved the committee recommend a BE CONCURRED IN OF HB 465. The motion passed with Senator Yellowtail voting no.

DISPOSITION OF HOUSE BILL 530: Senator Severson made a motion that House Bill 530 BE CONCURRED IN.

Senator Bengston stated that it was her impression that falconry is a hobby. Senator Bengston questioned whether money should be made by selling the raptors. Even though the raptors are owned by the federal government, the cost is high to breed and raise the falcons. The falconers do a favor for society by breeding the species, yet it is an expensive hobby. Senator Bengtson questioned why the falconers should be reimbursed.

Senator Severson wondered how long raptor are away from the wild before they are no longer condidered wild. Evidently, some falcons are many generations from the wild and bred in captivity.

Senator Smith stated that the raptors are released at a comendable rate. Senator Bengtson memtioned concern about nest robbing, and the stealing of the young. Smith stated that conscientious individuals once save the buffalo from extinction. The raptors are tagged and strictly regulated. Senator Yellowtail comment on a sting operation that occurred approximately 3 years ago. A roll call vote was taken. The motion tied with Senators Smith, Anderson, Bishop and Severson voting yes.

DISPOSITION OF HOUSE BILL 329: Staff Andrea Merrill discussed the Audubon amendments. Senator Yellowtail moved the whole set of amendments including to strike "AND" and "TURKEY" from line 2 on page 2 and to strik "SIC POINT OR LARGER BULL ELK" and "FOURPOINT OR LARGER BUCK." Also, insert "pallid and white on page 1, line 21.

Smith questioned another bill, House Bill 740, which standardizes the the collection and disbursement of fines. Fifty percent goes to the county and fifty percent goes to the state. Senator Yellowtail did not anticipate a conflict. The motion passed unanimously. Senator Yellowtail moved the committee to recommend a BE CONCURRED IN AS AMENDED. The motion passed. Senator Severson voted no. Senator Yellowtail will carry the bill in the Senate.

DISPOSITION OF HOUSE BILL 322: Senator Yellowtail moved the committee to recommend additional consideration of HB 322.

March 27, 1937

..... 19.....

MR. PRESIDENT

We, your committee on Fish and Game

having had under consideration House Bill No. 329

Third reading copy (Blue color)

RESTITUTION FOR ILLEGAL KILLING OF WILDLIFE

Representative Bob Ream (Senator Wm. Yellowtail)

Respectfully report as follows: That House Bill No. 329

be amended as follows:

1. Page 1, line 18.
Strike: "SIX POINT OR LARGER BULL;"

2. Page 1, line 20.
Strike: "FOUR-POINT OR LARGER BUCK"
Following: "antelope;"
Insert: "antelope,"

3. Page 1, line 21.
Following "sturgeons"
Insert: "pallid and white"

4. Page 2, line 2.
Strike: "AND" and "TURKEY"

AND AS AMENDED
BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Ed Smith
Chairman.

HOUSE BILL NO. 329

INTRODUCED BY REAM, ELLISON, E. SMITH, BISHOP

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING RESTITUTION FOR ~~THE~~ CERTAIN ILLEGAL KILLING OR POSSESSION OF ~~CERTAIN~~ WILDLIFE; PROVIDING A PENALTY; AND PROVIDING FOR DISPOSITION OF RESTITUTION MONEY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Restitution for illegal killing or possession of certain wildlife. In addition to other penalties provided by law, a person convicted of the illegal killing or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state for EACH such bird, mammal, or fish according to the following schedule:

(1) bighorn sheep, mountain goat, caribou, buffalo, grizzly bear, moose, and endangered species, $1,000;

(2) ~~SIX-POINT-OR-LARGER-BULL~~ elk, mountain lion, black bear, lynx, and wolverine, $500;

(3) ~~FOUR-POINT---OR---LARGER---BUCK~~ deer, ~~antelope,~~ ANTELOPE, fisher, ~~raptors~~ RAPTOR, ~~swans~~ SWAN, bobcat, and ~~sturgeons~~ PALLID AND WHITE STURGEON, $300;

(4) paddlefish, grayling, and furbearers not listed in subsection (1), (2), or (3), $100;

(5) game ~~birds~~ BIRD (except ~~swans~~ SWAN) ~~and-nongame birds-(except--raptors,--rock--doves,--house--sparrows,--and starlings)~~ AND ~~TURKEYS~~ TURKEY, $25;

(6) game fish, $10.

SECTION 2. FINDING REQUIRED. BEFORE RESTITUTION MAY BE ORDERED PURSUANT TO [SECTION 1], THE FINDER OF FACT AT TRIAL OR THE COURT UPON ENTRY OF A GUILTY PLEA MUST FIND THAT SUCH ILLEGAL KILLING OR POSSESSION WAS DONE KNOWINGLY OR PURPOSELY AS DEFINED IN 45-2-101.

Section 3. Payment -- penalty for nonpayment. (1) In each case of conviction, the court before which the conviction is obtained shall order payment of the sum stated in [section 1].

(2) Failure to make payment in the time and manner prescribed by the court constitutes civil contempt of court and is punishable as provided in Title 3, chapter 1, part 5.

Section 4. Disposition of proceeds. All money collected by a court pursuant to [this act] must be remitted to the state treasurer for deposit in the state special revenue fund as provided in 87-1-601(1).

-End-